IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Ins.APP.No. 84 of 2005()

(EIC 66/2003 of E.I. COURT, KOZHIKODE)

APPELLANT/APPLICANT

N.RAMAN, PARAYIL HOUSE,
EDAKKEPRAM SOUTH, P.O.CHERUKUNNU,
KANNUR DISTRICT.

BY ADV. SRI.I.V.PRAMOD

RESPONDENTS:
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1. THE MANAGER, LOCAL OFFICE,
E.S.I. CORPORATION, PAYYANNUR.

2. THE ASSISTANT DIRECTOR,
E.S.I. CORPORATION, SWARAJ ROUND,
THRISSUR.

BY ADV. SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPN

THIS INSURANCE APPEALS HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

Insurance Appeal No. 84 of 2005

Dated this the 28th June, 2007.

J U D G M E N T

The claimant in E.I.C.No.66/2003, on the file of the Employees' Insurance Court, Kozhikode, is the appellant. The appellant filed a petition claiming a declaration that he sustained employment injury on 20.5.2003, and, hence, entitled to get the consequential benefits. According to the appellant, while he was working as an employee at M/s.Madayi Saw Mills, Payangadi, he sustained an employment injury, at about 4.15 p.m., on 20.5.2003.

2. The respondent raised a contention that the case of appellant that he sustained employment injury at about 4.30 p.m. on 20.5.2003 is not true. It was contented that claim is not genuine and bona fide, and no accident as alleged had taken place. The accident is alleged to have take place on 20.5.2003. The report of the accident received in the E.S.I. Local office only on 1.7.2003. In fact, the Attendance Register of the factory shows that initially the appellant was marked absent on 19.5.2003 and 20.5.2003. But subsequently, the same was tampered with and corrected to show that he was actually attended the work. In fact, there is material to show that on the date of the alleged accident also, the appellant came to the local

office of the respondent during office hours. So, the Insurance Court took a view that case of the appellant that he had actually worked on 20.5.2003 cannot be accepted. It was also to be noted that there was evidence to show that he attended the office on 20.5.2003, 30.5.2003, 8.6.2003 and 18.6.2003 The appellant did not report the accident on any of these days. Admittedly, the appellant did not go to any hospital on the date of accident. According to him, he applied certain balms on the date of accident. On the next day, there was a Harthal. Though the appellant claimed that on 22.5.2003, he went to hospital, no documentary evidence was produced to prove that fact. Even according to the appellant, he was getting disablement benefit treating as a case of 80% disability. Hence, if as a matter of fact, the appellant was suffering from 80% occasional disability, it would not have been possible for him to lift timber logs using a lever. The Insurance Court, after considering the evidence, rejected the claim. That is a finding of fact based on good evidence. No question of law arises in this case for consideration. So, the appeal is only to be dismissed.

In the result, the appeal is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.